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9 **FILED**
10 **DISTRICT COURT OF GUAM**

11 JAN 19 2005

12 **MARY L.M. MORAN**
13 **CLERK OF COURT**

14 133

15 **IN THE UNITED STATES DISTRICT COURT**
16 **DISTRICT OF GUAM**

17 JULIE BABAUTA SANTOS, et. al.,) Civil Case No. 04-00006
18 Petitioners,)
19) ARTEMIO B. ILAGAN'S OBJECTION TO
20 vs.) THE PEOPLE'S SUBPOENA
21) DUCES TECUM
22 FELIX P. CAMACHO, etc., et. al.,)
23 Respondents.)
24)
25)

15 **GENERAL OBJECTIONS**

16 Mr. Ilagan objects to the subpoena *duces tecum* served by the Attorney General on January 5,
17 2005. It seeks irrelevant documents and is overbroad, unduly burdensome, harassing, and
18 redundant. Leaving aside the absence of any need for these documents in the first place, the
19 Attorney General already has them because Mr. Ilagan already produced all responsive non-
20 privileged documents to the Attorney General pursuant to a Sunshine Act request that the
21 Attorney General served upon Mr. Ilagan on January 4, 2005.

22 Moreover, it is improper to use a subpoena *duces tecum* in lieu of a document request, when
23 the recipient of the subpoena is a party, such as Mr. Ilagan. *Wirtz v. Local Union 169*, 37
24 F.R.D. 349, 351 (D. Nev. 1965).

1
2 [F]ederal discovery processes are not intended to require such
3 wholesale disclosure of government memoranda, reports,
4 communications and statements as is contemplated under the
5 terms of this subpoena. A subpoena *duces tecum*, under Rule
6 45, is not intended as a substitute for a motion to produce
7 under Rule 34, where, as in this case, the subpoena requires
8 production of documents under the control of plaintiff, as
9 distinguished from documents in the possession and control of
10 an independent witness.

11 *Id.*

12 Mr. Ilagan further objects that the subpoena calls for documents that are protected by the
13 attorney-client privilege, by executive privilege, are not in his possession, and/or could be
14 obtained from others. Mr. Ilagan also objects that the subpoena calls for documents that are
15 equally available to the Attorney General.

16 Subject to the foregoing objections, and incorporating each General Objection into the
17 foregoing responses, Mr. Ilagan makes the following specific objections:

18 DOCUMENT DEMANDS

19 **Document Demand No. 1**

20 All contracts, purchase orders, memoranda, executive orders, correspondence, notices
21 and other documents evidencing, relating to and bearing on the hiring of Rawlen MT
22 Mantanona, Esq. and/or the Mantanona Law Office to provide legal services to you in
23 this court case.

24 **Objections**

25 Mr. Ilagan objects that this demand is irrelevant and redundant of the Sunshine Act
26 request made by the Attorney General to which Mr. Ilagan already has responded fully.
27 This request also seeks privileged communications, documents that are available from
28 sources other than Mr. Ilagan, and documents that are within the Attorney General's
29 possession.

1 Notwithstanding the specific and general objections stated above, all non-privileged
2 documents not already in the possession of the Attorney General's office will be
3 produced at the January 25, 2004 hearing pursuant to the Court's Order of January 14,
4 2005 moving the hearing date.

5 **Document Demand No. 2**

6 All correspondence in 2004 and 2005 from you and/or your representatives to the
7 Attorney General or any Assistant Attorney General regarding this case and any other
8 EITC court cases.

9 **Objections**

10 Mr. Ilagan objects that this demand is irrelevant and redundant of the Sunshine Act
11 request made by the Attorney General to which Mr. Ilagan already has responded fully.
12 This request also seeks privileged communications, documents that are available from
13 sources other than Mr. Ilagan, and documents that are within the Attorney General's
14 possession, such as "[a]ll correspondence in 2004 and 2005 from you and/or your
15 representatives to the Attorney General or any Assistant Attorney General regarding
16 this case and any other EITC court cases."

17 Notwithstanding the specific and general objections stated above, all non-privileged
18 documents not already in the possession of the Attorney General's office will be
19 produced at the January 25, 2004 hearing pursuant to the Court's Order of January 14,
20 2005 moving the hearing date.

21 **Document Demand No. 3**

22 "All documents, memoranda, e-mails and other documents evidencing, bearing on and
23 relating to any payments of Earned Income Tax Credits by the government of Guam to
24 anyone during 2004."

1 **Objections**

2 Mr. Ilagan objects that this demand is irrelevant and redundant of the Sunshine Act
3 request made by the Attorney General to which Mr. Ilagan already has responded fully.
4 This request also seeks privileged communications and documents that are available
5 from sources other than Mr. Ilagan. Mr. Ilagan further objects that pursuant to 26 U.S.C. §
6 7213(a), federal and state official cannot disclose the tax records of any taxpayer.

7 Notwithstanding the specific and general objections stated above, all non-privileged
8 documents and non-confidential records not already in the possession of the Attorney
9 General's office will be produced at the January 25, 2004 hearing pursuant to the
10 Court's Order of January 14, 2005 moving the hearing date.

11 Dated: January 19, 2005

12 MANTANONA LAW OFFICE
13 Attorney for **Lourdes M. Perez and**
14 **Artemio B. Ilagan**

15 

16 By:

17

RAWLEN M T MANTANONA
18 A duly licensed employee.